

CHAD C. CARTER,)	
)	
Petitioner,)	
)	
vs.)	Case No. 4:07CV1581 CDP
)	
STEVE LARKINS,)	
)	
Respondent.)	

This matter is before the Court on the petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 filed by petitioner Chad C. Carter. The Court referred this matter to United States Magistrate Judge Mary Ann L. Medler for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). Judge Medler recommended that petitioner's habeas petition should be denied. Petitioner timely objected to the Report and Recommendation.

I have conducted a de novo review of all matters relevant to the petition. After careful consideration, I will adopt and sustain Judge Medler's Report and Recommendation in its entirety. In particular, I agree that petitioner's second claim for relief is procedurally barred, and that his first claim fails on the merits, for the reasons stated by Judge Medler.

I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal constitutional right. See Tiedeman v. Benson, 122 F.3d 518, 522 (8th Cir. 1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings. Cox v. Norris, 133 F.3d 565, 569 (8th Cir. 1997) (citing Flieger v. Delo, 16 F.3d 878, 882-83 (8th Cir. 1994)). Because petitioner has not made such a showing, I will not issue a certificate of appealability.


Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation [#9] is adopted and sustained in its entirety.

IT IS FURTHER ORDERED that Petitioner Chad C. Carter's Petition for Writ of Habeas Corpus [#1] is denied.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

A separate judgment in accordance with this Memorandum and Order is entered this same date.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 23rd day of September, 2009.